REMARKS

The Examiner is requiring restriction to one of the following groups:

Group I: Claims 1-5, drawn to a process of making 2-(1-hydroxyalkyl)cycloalkanone and/or its 1-hydroxyaryl derivative;

Group II: Claim 6, drawn to a process of making alkyl(3-oxo-2-alkylcycloalkyl) acetate and/or its 2-arylcycloalkyl derivative; and

Group III: Claim 7, drawn to a process of making 5-alkyl-5-alkanolide and/or its 5-aryl derivative.

Applicants have elected Group I, claims 1-5, with traverse.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the examiner if restriction is not required (M.P.E.P. § 803). The burden of proof is on the Examiner to provide reasons and/or examples, to support any conclusion in regard to patentable distinctness (M.P.E.P. § 803). Applicants respectfully traverse the restriction requirement on the grounds that the Examiner has not carried the burden of providing sufficient reason and/or examples to support any conclusion that the claims of the restricted groups are patentably distinct.

The Examiner has classified Groups I-III as materially different processes for producing three distinct products, i.e., unrelated. Patentable distinctness may be shown if different groups, not disclosed as capable of use together, having different modes of operation, different functions or different effects are independent. (M.P.E.P § 806.04).

However, the Examiner merely concludes that the application discloses and claims a plurality of patentably distinct inventions that are far too numerous to mention individually. The Examiner has not provided any evidence to show that the groups have different modes of operation, different functions or different effects, as required under § 806.04. Moreover,

Applicants note the Examiner's classification of Groups I-II includes almost identically the same classes. Therefore, as the Examiner has not met the requirements under § 806.04 or shown that there would be a burden, the restriction is improper.

Regarding the election of species, Applicants make no statement regarding the patentable distinctness of the species, but note that for restriction to be proper there must be a patentable difference between the species, as claimed. M.P.E.P. § 808.01(a). The Examiner, however, merely makes the conclusory statement that the inventions contain a plurality of patentably distinct compounds that are far too numerous to list individually. The Examiner has neither discussed nor submitted any reasoning or evidence whatsoever that addresses the patentable distinctness of any species in the claims. Thus, requiring the election of a single species is improper.

Accordingly, the restriction is believed to be improper. The withdrawal of the requirement is respectfully requested.

Respectfully submitted,

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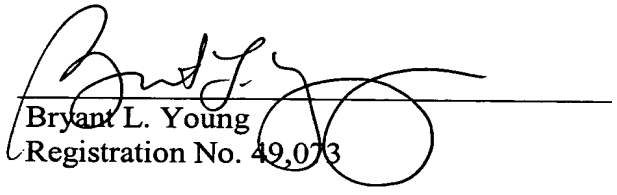

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